

A. Michael Weber (AW-8760)
Sara D. Sheinkin (SS-9719)
LITTLER MENDELSON, P.C.
885 Third Avenue, 16th Floor
New York, NY 10022.4834
212.583.9600

Attorneys for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Elijah Johnson,

Plaintiff,

-against-

Cooper Industries, Inc.,

Defendant.

Case No. 07 Civ. 6320 (DC)

ANSWER

Electronically Filed

Defendant Cooper Industries, Ltd. (incorrectly identified as Cooper Industries, Inc.), by its attorneys, Littler Mendelson, P.C., hereby answers the Complaint of Plaintiff Elijah Johnson as follows:

1. Upon information and belief, denies the allegations in paragraph 1 of the Complaint.
2. Denies the allegations in paragraph 2 of the Complaint, but admits that Cooper Wiring Devices is located at the referenced address.
3. Denies the allegations in paragraph 3 of the Complaint, but admits that Plaintiff was employed by Cooper Wiring Devices, at 45-31 Court Square in Long Island City, New York.
4. Denies the allegations in paragraph 4 of the Complaint.
5. Denies the allegations in paragraph 5 of the Complaint.
6. Admits the allegations in paragraph 6 of the Complaint, but denies that Defendant ever committed any discriminatory acts against Plaintiff.

7. Denies the allegations in paragraph 7 of the Complaint.
 8. Denies the allegations in paragraph 8 of the Complaint.
 9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Complaint.
 10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Complaint.
 11. Paragraph 11 of the Complaint contains no allegation and, thus, no response is required.
 12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Complaint.
- Denies that Plaintiff is entitled to any of the relief requested in the “WHEREFORE” clause of the Complaint, or to any relief at all, against Defendant Cooper Industries Inc.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. The Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiff’s claims are barred, in whole or in part, by the applicable statute(s) of limitations.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiff’s claims are barred, in whole or in part, by the doctrines of waiver, estoppel, and/or unclean hands.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff's claims are barred, in whole or in part, because the employment actions about which he complains were taken for legitimate, non-discriminatory business reasons.

FIFTH AFFIRMATIVE DEFENSE

5. Plaintiff's claims are barred, in whole or in part, due to his failure to adequately comply with the statutory and/or administrative prerequisites of bringing this action.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiff's claimed are barred, in whole or in part, due to the doctrine of election of remedies.

SEVENTH AFFIRMATIVE DEFENSE

7. Cooper Industries, Inc. is not a proper defendant in this action because it was not Plaintiff's employer.

EIGHTH AFFIRMATIVE DEFENSE

8. Venue in this district is improper

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff's claims are barred, in whole or in part, to the extent that Cooper Wiring Devices exercised reasonable care to prevent and promptly correct any discriminatory behavior, and Plaintiff unreasonably failed to take advantage of the preventative or corrective opportunities or otherwise avoid harm.

TENTH AFFIRMATIVE DEFENSE

10. Plaintiff failed to mitigate his alleged damages.

ELEVENTH AFFIRMATIVE DEFENSE

11. Plaintiff is not entitled to punitive damages.

TWELFTH AFFIRMATIVE DEFENSE

12. Plaintiff failed to grieve his claims in accordance with the Collective Bargaining Agreement between Cooper Wiring Devices and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, Local 365.

Defendant reserves the right to assert additional affirmative defenses as established by the facts of this case.

WHEREFORE, Defendant Cooper Industries, Inc. demands judgment dismissing the Complaint with prejudice, together with the costs and disbursements of this action, reasonable attorneys' fees, and such other and further relief as the Court deems just and proper.

Date: January 8, 2006
New York, New York

/s Sara Sheinkin

A. Michael Weber (AW-8760)
Sara Danielle Sheinkin (SS-9719)
LITTLER MENDELSON
A Professional Corporation
885 Third Avenue
16th Floor
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212.583.9600

Attorneys for Defendant